[JOINT COMMITTEE PRINT]

DESCRIPTION OF S. 203 (RELATING TO TAX AMNESTY) AND S. 205 (RELATING TO DESIGNATION OF CONTRIBUTIONS ON TAX RETURN FOR THE NATIONAL ORGAN TRANSPLANT TRUST FUND)

SCHEDULED FOR A HEARING

BEFORE THE

SUBCOMMITTEE ON
TAXATION AND DEBT MANAGEMENT

OF THE

COMMITTEE ON FINANCE

ON JUNE 24, 1985

PREPARED BY THE STAFF

OF THE

JOINT COMMITTEE ON TAXATION

JUNE 21, 1985

U.S. GOVERNMENT PRINTING OFFICE

48-808 O WASHINGTON : 1985 JCS-22-85

J862-28
S 362-14

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INTRODUCTION

The Senate Finance Subcommittee on Taxation and Debt Management has scheduled a public hearing on June 24, 1985, on S. 203 (relating to tax amnesty) and S. 205 (relating to designation of contributions on tax returns for a proposed National Organ Transplant Trust Fund).

The first part of the pamphlet [1] is a summary. The second part is a description of the bills, including present law, explanation of provisions, and effective dates.

[1] This pamphlet may be cited as follows: Joint Committee on Taxation, *Description of S. 203 (Relating to Tax Amnesty) and S. 205 (Relating to Designation of Contributions on Tax Return for the National Organ Transplant Trust Fund)* (JCS-22-85), June 21, 1985.

I. SUMMARY

S. 203

S. 203 (Senator Dixon) would provide a six-month period during which taxpayers who voluntarily disclosed underpayments or nonpayments of taxes and who paid those taxes plus one-half of the interest otherwise due on those taxes would receive amnesty from all civil and criminal penalties (as well as the remaining one-half of the interest). In addition, the bill would increase by 50 percent the civil and criminal penalties in the Code. The bill also authorizes the employment of 3,000 additional IRS agents.

S. 205

S. 205 (Senator Bumpers) would provide that taxpayers could designate on their tax returns all or a portion of their tax refunds (or make contributions with their returns) to a new trust fund that would defray the cost of necessary organ transplants. The provision would be effective for taxable years ending after the date of enactment.

II. DESCRIPTION OF THE BILLS

1. S. 203 (Senator Dixon)

Tax Amnesty

("Federal Tax Delinquency Amnesty Act of 1985")

Present Law

The Federal Government has never instituted a program that provided amnesty from both civil and criminal penalties for taxpayers who both voluntarily disclosed that they had underpaid their taxes and then paid those amounts. The Code includes civil and criminal penalties that may apply to failure to file returns on a timely basis or to pay taxes due. The Code also requires that interest be paid on any underpayment of tax.

The Internal Revenue Service (IRS) had an administrative policy, discontinued in 1952,[2] that in effect provided amnesty from criminal prosecution (but not from civil penalties or interest) for taxpayers who voluntarily disclosed that they had underpaid their taxes. In 1961, the IRS issued a news release suggesting to taxpayers that, since the IRS was then installing new data processing equipment, it might be a propitious time for taxpayers to disclose voluntarily any underpayments of tax. The news release also noted that the likelihood of criminal prosecution was not high in instances of voluntary disclosure, although the news release offered no assurances that amnesty from criminal prosecution would be granted. A current policy statement of the IRS includes voluntary disclosure of tax underpayments as one criterion to be considered in determining whether a case warrants criminal prosecution.

A number of States have recently instituted tax amnesty programs.[3] These programs differed widely as to the types of taxes included, whether criminal penalties only or civil penalties as well were waived, whether interest was required to be paid, and whether increased penalties and other compliance measures were instituted following the amnesty period.

Explanation of Provisions

Generally

The bill would provide a one-time amnesty from civil and criminal penalties, as well as from 50 percent of the interest owed, for

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[2] It appears that this policy was officially terminated because of failure to pay the taxes once amnesty had been granted, increased litigation, and lack of uniformity in administering the program.

[3] These States are: Alabama, Arizona, California, Idaho, Illinois (two programs), Kansas, Massachusetts, Minnesota, Missouri, North Dakota, Oklahoma, and Texas.

taxpayers[4] who voluntarily disclose any underpayment of tax and who pay the tax and the remaining 50 percent of the interest.

Taxes included

The amnesty would apply to any tax imposed under the Internal Revenue Code. The amnesty would not apply, however, to underpayments of tax attributable to income from illegal sources.

Taxpayers eligible

In general, any taxpayer would be eligible to participate, so long as the taxpayer follows the specified procedures and pays the tax and one-half the interest due.

A taxpayer would not be eligible to participate, however, with respect to a specific taxable period to the extent that the taxpayer has been notified that the IRS is questioning the taxpayer's liability for that period.[5] In addition, a taxpayer would not be eligible to participate with respect to any understatement of tax to the extent that IRS has already begun normal procedures to obtain payment of those taxes. Also, a taxpayer would not be eligible to participate if any representation made by the taxpayer in connection with amnesty is false or fraudulent[6] or if, prior to the date the taxpayer filed the required statement, a referral was made from the IRS to the Justice Department recommending grand jury investigation or criminal prosecution of the taxpayer.

Requirements

The taxpayer would be required to file a written statement with the IRS. The statement must list the taxpayer's name, address, and taxpayer identification number (for individuals, the social security number). The taxpayer must specify the amount of the admitted underpayment for the taxable period, and must include whatever additional information the IRS requires to determine the correct amount of underpayment. The taxpayer must agree to a waiver of any restriction (such as the statute of limitations) on the assessment or collection of the underpayment.

The taxpayer would be required to pay the amount of the admitted understatement of tax when the taxpayer files this statement.[7] In addition, the taxpayer must pay the interest due within 30 days of being notified by the IRS of the amount of interest due.[8]

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[4] Amnesty would be available to any entity liable for any tax imposed under the Code, including (but not limited to) individuals, corporations, estates, trusts, and tax-exempt organizations.

[5] The bill would provide that notice to certain related parties would qualify as notice to the taxpayer under this provision.

[6] Consequently, if a taxpayer followed the specified procedures and paid both the tax and one-half the interest as required, but it was later discovered that the taxpayer made false statements on the amnesty form, the amnesty would in effect be revoked with respect to this taxpayer.

[7] If the taxpayer disputes the IRS' determination of the amount of the underpayment, the taxpayer must nonetheless pay that amount to participate in the amnesty. The bill provides that these disputes would proceed through normal administrative and judicial procedures. If at the conclusion of these procedures the taxpayer is due a refund, the bill provides that the refund would include interest at the 6-month Treasury bill rate in effect as of the date the dispute is resolved.

[8] Taxpayers must pay one-half the interest otherwise due. This in effect means that interest is computed at a rate one-half the otherwise applicable rate. One-half the applicable rate would vary from 3 to 10 percent, depending on the specific years with respect to which the underpayment was outstanding.

The bill would authorize to be appropriated such sums as are necessary to administer the amnesty program. The bill contemplates that special efforts, including direct-mail contacts and radio, television, and print advertising, would be made by the IRS to publicize the amnesty program.

Installment payments

The bill provides that taxpayers may request the privilege of paying in installments, rather than paying the entire tax when filing the written statement. The IRS would determine whether it is appropriate to permit the taxpayer to pay in installments.

If the IRS determines that it is appropriate. the IRS and the taxpayer would be required to enter into an agreement specifying the installment payments within 30 days of the date the IRS notifies the taxpayer that the IRS will consider permitting installment payments. If the IRS determines that it is not appropriate to permit the taxpayer to pay in installments, the IRS must so notify the taxpayer. The taxpayer then would be required to pay the tax within 30 days.

Penalties

The bill would increase the civil and criminal penalties in the Code by 50 percent.

Additional IRS agents

The bill would authorize to be appropriated such sums as are necessary to employ 3,000 additional IRS agents.

Effective Dates

The amnesty would be effective for the six-month period beginning on July 1, 1985, or on the first July 1 after the date of enactment. The amnesty would be available only for underpayments for taxable years ending before January 1, 1984.

The 50-percent increase in civil and criminal penalties would apply to taxable years beginning after December 31, 1983. In addition, the increase would apply to any underpayment relating to previous taxable years outstanding at the conclusion of the amnesty period.[9]

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[9] This provision would not apply to underpayments with respect to which judgment was entered before the date of enactment.

2. S. 205 (Senator Bumpers)

Designation of Contributions on Tax Return for the Organ Transplant Trust Fund

("Organ Transplant Contributions Act of 1985")

Present Law

Under present law, individual taxpayers may elect to allocate $1 ($2 on a joint return) of their tax liability to the Presidential Election Campaign Fund, a fund established to provide financing to the campaigns of presidential and vice-presidential candidates. The allocation is made on the first page of the taxpayer's return. An allocation to the fund neither increases nor decreases the taxpayer's liability, but merely determines whether or not the allocated amount will be used by the government for campaign funding.

No other provisions of the tax law permit taxpayers to designate for what purpose the amount of tax owed must be used by the government. No provision of present law permits taxpayers to make contributions for charitable or other purposes through their Federal income tax return. However, the Commissioner of Internal Revenue in the instructions to Form 1040 has encouraged taxpayers to include with their tax return voluntary contributions to reduce the public debt. Taxpayers wishing to do so must enclose a separate check payable to the Bureau of Public Debt.

Explanation of Provisions

Designation of amounts for Organ Transplant Trust Fund

Under the bill, taxpayers entitled to an income tax refund could designate all or any portion of the refund as a contribution to the National Organ Transplant Trust Fund, a trust fund to be established by the bill within the United States Treasury. The bill would require that the designation appear on the first page of the return. Taxpayers not entitled to a refund, or who wished to make a contribution to the Fund in excess of their refund, could include an additional amount with their return and designate this as a contribution to the Fund. The designation would not increase or decrease the tax liability of a taxpayer for the year covered by the return.

Disposition of amounts in Trust Fund

Amounts in the National Organ Transplant Trust Fund would be used by the Security of Health and Human Services to carry out the purposes of section 5 of the National Organ Transplant Contributions Act of 1984. Specifically, the funds would be used to defray the cost of qualified organ transplant procedures incurred by individuals with a life-threatening medical condition for which a trans-

plant is medically necessary, who lack the financial resources to pay for such procedures. Expenses incurred by the Treasury Department in administering the program also would be payable out of the Fund.

Specific rules and procedures relating to the medical and financial eligibility of individuals for benefits under the program, which transplant procedures would be eligible for payments from the Fund, the maximum amounts payable for each procedure, certification of health care facilities as potential recipients of Trust Fund monies, and other relevant determinations, would be prescribed by regulations issued by the Secretary of Health and Human Services.

Effective Date

The provision would be effective for returns filed for taxable years ending after the date of enactment.

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